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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 0907271173-0629-03]

RIN 0648-XC135

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
2012 Commercial Accountability Measure and Closure for South
Atlantic Gag and South Atlantic Shallow-Water Grouper

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the
commercial sector for gag in the exclusive economic zone (EEZ) of
the South Atlantic. Commercial landings for gag, as estimated by
the Science Research Director, are projected to reach the
commercial annual catch limit (ACL) on October 20, 2012.

Therefore, NMFS closes the commercial sector for gag and all
other South Atlantic Shallow-Water Grouper (SASWG) on October
20, 2012 for the remainder of the 2012 fishing year, through
December 31, 2012. Because there is a January through April
seasonal closure for SASWG, SASWG will not reopen until May 1,
2013. In the South Atlantic, SASWG means gag, black grouper, red

grouper, scamp, red hind, rock hind, yellowmouth grouper, yellowfin grouper, graysby, and coney. This action is necessary to reduce overfishing of the South Atlantic gag and other SASWG resources.

DATES: This rule is effective 12:01 a.m., local time, October 20, 2012, until 12:01 a.m., local time, January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727-824-5305, e-mail: Catherine.Hayslip@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). Gag in the South Atlantic are managed under this FMP. The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

The commercial ACL (commercial quota) for gag in the South Atlantic is 352,940 lb (160,091 kg), gutted weight, for the current fishing year, as specified in 50 CFR 622.42(e)(7).

In accordance with regulations at 50 CFR 622.49(b)(3)(i), NMFS is required to close the commercial sector for gag and all other SASWG when the commercial ACL (commercial quota) for gag has been reached, or is projected to be reached, by filing a

notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial ACL (commercial quota) for South Atlantic gag will be reached by October 20. Accordingly, the commercial sector for South Atlantic gag and all other SASWG is closed effective 12:01 a.m., local time, October 20, 2012, until 12:01 a.m., local time, January 1, 2013. The recreational sector will continue to remain open until December 31, 2012.

Additionally, a seasonal closure is in place for the recreational and commercial sectors for gag and all other SASWG from January through April each fishing year as specified in 50 CFR 622.35(j). Therefore, the commercial harvest of gag and all other SASWG will not commence until May 1, 2013.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having gag or other SASWG onboard must have landed and bartered, traded, or sold such gag or other SASWG prior to 12:01 a.m., local time, October 20, 2012. During this commercial closure, the bag limit and possession limits specified in 50 CFR 622.39(d)(1) and (d)(2), respectively, apply to all harvest or possession of gag or other SASWG in or from the South Atlantic EEZ, and the sale or purchase of gag or other SASWG taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or

purchase of gag or other SASWG that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, October 20, 2012, and were held in cold storage by a dealer or processor. For a person on board a vessel for which a Federal commercial permit for the South Atlantic snapper-grouper fishery has been issued, the sale and purchase provisions of the commercial closure for gag or other SASWG would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.43(a)(5)(iii).

During the seasonal closure for the recreational and commercial sectors for gag and all other SASWG from January through April each fishing year, no person may fish for, harvest, or possess in or from the South Atlantic EEZ any SASWG. In addition, for a person on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, the provisions of this closure apply in the South Atlantic, regardless of where such fish are harvested, i.e., in state or Federal waters as specified in 50 CFR 622.35(j).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately

implement this action to close the commercial sector for gag and other SASWG constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect gag since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL (commercial quota).

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 et seq.

Dated: October 10, 2012

Emily H. Menashes,
Deputy Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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